

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**J.W., A MINOR, BY AND THROUGH AMANDA WILLIAMS,  
GUARDIAN AND NEXT FRIEND**

**PLAINTIFF**

**VS**

**CASE NUMBER 3:21-cv-00663-CWR-LGI**

**THE CITY OF JACKSON, ET AL.**

**DEFENDANTS**

**JERRIOT SMASH’S MOTION FOR JUDGMENT  
ON THE PLEADINGS AND/OR QUALIFIED IMMUNITY**

Jerriot Smash, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), files this Motion for Judgment on the Pleadings and/or Qualified Immunity, seeking dismissal of Counts I, II and III of Plaintiff’s Amended Complaint [Doc. 51] against him. In support of the requested relief, Smash states:

1. In the Amended Complaint, Plaintiff asserts three claims for relief against Smash: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger; and (3) Count III: Negligence. *See* Am. Compl. [Doc. 51] at 77-86.
2. Each claim fails to state a claim upon which relief may be granted against Smash.
3. Plaintiff fails to allege Smash participated in any conduct giving rise to Counts I and II. Regardless, Smash is entitled to the protection afforded by qualified immunity.
4. Furthermore, Plaintiff has not alleged a state actor’s direct, intentional physical contact with Plaintiff; and, therefore, no violation of bodily-integrity.
5. The Fifth Circuit does not recognize a state-created-danger theory of liability.

6. Additionally, Plaintiff filed the negligence claim (Count III) without giving Smash the notice required by the Mississippi Tort Claims Act. That claim also fails to state a basis for Smash's individual liability for Plaintiff's alleged injuries.

7. Accordingly, and for the reasons more fully set forth in his accompanying Memorandum in Support, Smash requests dismissal of Counts I, II and III against him.

RESPECTFULLY SUBMITTED, this the 12<sup>th</sup> day of May, 2022.

/s/ Terris C. Harris

TERRIS C. HARRIS

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2022, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ Terris C. Harris

TERRIS C. HARRIS